

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

RICHARD E. BROWN, )  
Plaintiff, )  
v. )  
STATE OF TENNESSEE c/o STATE )  
ATTORNEY GENERAL, )  
WILLIAMSON COUNTY CIRCUIT )  
COURT, WILLIAMSON COUNTY )  
CIRCUIT COURT CLERK'S OFFICE, )  
WILLIAMSON COUNTY DISTRICT )  
ATTORNEYS OFFICE, FRANKLIN )  
POLICE DEPARTMENT IN )  
WILLIAMSON COUNTY, and )  
PROVIDENCE COMMUNITY )  
CORRECTIONS CORPORATION, )  
Defendants. )

No. 3:13-00191  
Judge Sharp

## **ORDER**

Magistrate Judge Knowles has entered a Report and Recommendation recommending that the Motions to Dismiss filed by Defendants (1) Williamson County Circuit Court Clerk (Docket No. 17); (2) Franklin Police Department (Docket No. 19); (3) State of Tennessee, Williamson County Circuit Court, and Williamson County District Attorney's Office (Docket No. 33); and (4) Providence Community Corrections, Inc. (Docket No. 36) be granted and that this case be dismissed with prejudice. Plaintiff's only objection "relates to defendant Franklin Police Department," and requests that Plaintiff be allowed to substitute "the City of Franklin, Tennessee as a party defendant in lieu of the original defendant Franklin Police Department in Williamson County." (Docket No. 61 at 1-2). In response, Defendant Franklin Police Department argues that Plaintiff knew long ago

that the City of Franklin should have been substituted as the correct Defendant and that, in any event, it raised various other reasons for dismissal of the action as to the Franklin Police Department.

Having undertaken the *de novo* review required by Rule 72(b) of the Federal Rules of Civil Procedure, the Court agrees with the recommended dismissal of all of the Defendants, except the Franklin Police Department. The only reason given in the R&R for the dismissal of that Defendant is that a municipality and not the police department is the proper defendant in a civil rights action. In accordance with Fed. R. Civ. P. 72(b)(3) the Court will return the matter to Magistrate Judge Knowles to determine whether the City of Franklin should be substituted as a party and to consider the other arguments for dismissal raised by the Franklin Police Department in its Motion to Dismiss.

Accordingly, the Court rules as follows:

(1) The Motions to Dismiss filed by Defendant Williamson County Circuit Court Clerk (Docket No. 17); Defendants State of Tennessee, Williamson County Circuit Court, and Williamson County District Attorney's Office (Docket No. 33); and Defendant Providence Community Corrections, Inc. (Docket No. 36) are hereby GRANTED, those Defendants are hereby DISMISSED WITH PREJUDICE, and the Court DECLINES to exercise supplemental jurisdiction over Plaintiff's state law claims as to them;

(2) The Report and Recommendation (Docket No. 54) is hereby ACCEPTED and APPROVED, except as it relates to the recommended dismissal of Defendant Franklin Police Department in Williamson County;

(3) This matter is RETURNED to Magistrate Judge Knowles to determine whether Plaintiff should be allowed to effectively amend his Complaint to substitute the City of Franklin as a Defendant and, if so, whether such an amendment would be futile in light of the other arguments

raised by the Franklin Police Department in its Motion to Dismiss (Docket No. 19); and

(4) Defendants' Motion to Ascertain Status (Docket No. 65) is hereby DENIED AS MOOT.

It is SO ORDERED.

  
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KEVIN H. SHARP  
UNITED STATES DISTRICT JUDGE